

**MINUTES**  
**SCOTTSDALE CITY COUNCIL**  
**CITY COUNCIL MEETING**  
**Tuesday, July 1, 2003**

**The Kiva  
City Hall  
Scottsdale, Arizona**

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**Tuesday, July 1, 2003**

**CALL TO ORDER (IN CITY HALL KIVA FORUM 3939 N. Drinkwater Boulevard)**

Mayor Manross called to order the Regular Meeting of the Scottsdale City Council on Tuesday, July 1, 2003 in the Kiva, City Hall, at 5:07 P.M.

**ROLL CALL**

Present:

Mayor Mary Manross  
Vice Mayor Ned O'Hearn  
Council Members David Ortega, Tom Silverman  
Robert Littlefield, Wayne Ecton, and Cynthia Lukas

Also Present:

City Manager Jan Dolan  
City Attorney David Pennartz  
City Clerk Sonia Robertson

**Pledge of Allegiance**

City Attorney David Pennartz led the audience in the pledge.

**Presentations/Information Updates**

Councilwoman Lukas gave an update from the Aviation Subcommittee she served on, formed to "oversee the development and implementation of strategic action plans that Scottsdale could undertake to become more involved in aviation airspace and airport facility planning in the region". The subcommittee focused on four key issues: 1) Pilot & Community Outreach Program; 2) Contract Tower Program; 3) Radar; 4) Part 150 & 161 Studies.

**\*\*\*Appointment**

Mayor Manross noted Mr. Pennartz would be leaving the city effective August 15, 2003 and Council would consider the appointment of Brad Woodford as Interim City Attorney for a period of about 4 months.

COUNCILMAN ORTEGA MOVED FOR THE APPOINTMENT OF BRAD WOODFORD AS INTERIM CITY ATTORNEY IN ACCORDANCE WITH THE DRAFT EMPLOYMENT TERMS. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7-0.

## **Boards and Commissions**

Development Review Board (1 opening) – Councilman Ortega nominated Ernie Cortez for reappointment to this board. The reappointment was approved 7-0.

Environmental Quality Advisory Board (1 opening) – Mayor Manross nominated Christina Guthrie for appointment to this board. Councilman Ecton nominated Ronald Hand for appointment. The appointment of Ronald Hand was approved 4/3.

Transportation Commission (1 opening) – Councilman Ortega nominated David Hill for reappointment to this commission. The reappointment was approved 7/0.

## **PUBLIC COMMENT**

**Jane Rau**, 8148 E Dale Lane, spoke against the Los Arcos project and stated her distrust in Mr. Elman.

**Mary Henkenius**, 7218 E Latham St, 85257, spoke in support of the Los Arcos project.

**Robert Mayhew & Sharon Morgan**, 7231 E Latham, 85257, presented photos of 40 vacant businesses in south Scottsdale and disputed that a Walmart would create more vacant spaces.

**Nancy Cantor**, 2529 N 86<sup>th</sup> St, 85257, said Council needed to support the good of the neighborhood and support Los Arcos.

**Jodi Paulsen**, 8630 E Dianna Dr, 85257, spoke against Elman and his tactics. She would like to see building without subsidies.

## **CONSENT AGENDA:**

Items 2 was removed from the Consent Agenda for separate discussion, and Item 15 was withdrawn.

### **1. Portales Amended Development Stipulation #3**

#### **Request:**

1. To delete stipulation #3 of Case 76-Z-85 on a 39.77 +/- acre parcel located at 4800 N. Scottsdale Road with Downtown/Regional Commercial Office Type 2, Planned Block Development (D/R CO-2 PBD).
2. To adopt Ordinance No. 3517 affirming the amendment to the stipulations.

**Location:** 4800 N Scottsdale Rd

**Reference:** 76-ZN-1985#4

**Staff Contact(s):** Kira Wauwie AICP, Project Coordination Manager, 480-312-7061, [kwauwie@ScottsdaleAZ.gov](mailto:kwauwie@ScottsdaleAZ.gov); Randy Grant, Chief Planning Officer, 480-312-7995; [rgrant@ScottsdaleAZ.gov](mailto:rgrant@ScottsdaleAZ.gov)

2. Removed for separate discussion. See page 12.

**3. DC Ranch Ordinance Adoption**

**Request:** Consider adopting Ordinance No. .3518, affirming zoning classifications as approved in case 54-ZN-1989#2. The original zoning is as follows:

Parcel 2.3b – Single Family Residential District (R1-7);  
Parcel 2.6 – Commercial Office District (C-O);  
Parcel 2.15 – Single Family Residential District (R1-7);  
Parcel 5.11 – (R-4R);  
Parcel 6.6 – Single Family Residential District (R1-10);  
Parcel 6.11 – Single Family Residential District (R1-10);  
Parcel 6.13 – Single Family Residential District (R1-10);  
Parcel 6.14 – Single Family Residential Districts (R1-43 and R1-10);  
Parcel 6.15 – Single Family Residential District (R1-10);  
Parcel G.1 – Single Family Residential Districts (R1-43, R1-10, R1-7);  
Parcels G.2 and G.4 – Single Family Residential District (R1-10) and (R-4);  
Parcel G.3 – (R-5) – Multi-Family Residential District;  
Parcel 5.1 – (R-5) – Multi-Family Residential District;  
All of the above parcels also have the Planned Community District (PCD) zoning overlay.

**Location:** Various Parcels in DC Ranch

**Reference:** 54-ZN-1989#2E

**Staff Contact(s):** Tim Curtis, Project Coordination Manager, 480-312-4210, [tcurtis@ScottsdaleAZ.gov](mailto:tcurtis@ScottsdaleAZ.gov); Randy Grant, 480-312-7995, [rgrant@ScottsdaleAZ.gov](mailto:rgrant@ScottsdaleAZ.gov)

**4. 121<sup>st</sup> Place Abandonment (Price Residence)**

**Request:** Consider the following:

1. Abandon 50 feet right-of-way along the 121<sup>st</sup> Place alignment.
2. Abandon 33 feet GLO (General Land Office) patent roadway and public utility easement.
3. Dedicate a 15 foot public trail easement along Mountain View Road.
4. Reserve a 20 foot water and sewer line easement along the east side of the subject 121<sup>st</sup> Place right-of-way.
5. Adopt Resolution No. 6334 vacating and abandoning a portion of right of way and roadway easement.

**Location:** North of Mountain View Road and West of 121<sup>st</sup> Place.

**Reference:** 3-AB-2003

**Staff Contact(s):** Cheryl Sumners, Senior Planner, 480-312-7834, [csumners@ScottsdaleAZ.gov](mailto:csumners@ScottsdaleAZ.gov); Jeff Fisher, Plan Review and Permit Services

Director, 480-312-7619, [jefisher@ScottsdaleAz.gov](mailto:jefisher@ScottsdaleAz.gov); Randy Grant, 480-312-7995, [rgrant@ScottsdaleAZ.gov](mailto:rgrant@ScottsdaleAZ.gov)

**Leon Spiro**, 7814 E Oberlin Wy, 85262, expressed concerns about this item and requested it be placed on the regular agenda with a staff presentation.

**5. Intergovernmental Agreement (IGA) with the Flood Control District of Maricopa County for design and construction of drainage improvements in Scottsdale.**

**Request:** Consider adoption of Resolution No. 6286 to authorize IGA #2003-052-COS with the Flood Control District of Maricopa County for design and construction of:

- Scottsdale Road Storm Drain Outfall Improvements,
- 71<sup>st</sup> Street Channel Improvements,
- Cactus Park Basin Improvements, and
- Mescal Park Basin Improvements.

The estimated cost of the proposed improvements is \$5,083,333 of which the Flood Control District will finance 50 percent.

**Related Policies, References:**

- a. Scottsdale Road Corridor Drainage Master Plan
- b. City Procurement Code

**Staff Contact(s):** Robert M. Johnson, CIP Coordination Manager, (480)-312-7054, [rmjohnson@scottsdaleaz.gov](mailto:rmjohnson@scottsdaleaz.gov); Al Dreska, Municipal Services General Manager, 480-312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

**6. Intergovernmental Agreement to allow the Scottsdale Police Department to provide forensic services and use of the Family Advocate Center to the Town of Paradise Valley Police Department.**

**Request:**

- Adopt Resolution No. 6329 authorizing the City to enter into an Intergovernmental Agreement:
- Authorize Intergovernmental Agreement No. 2003-118-COS, which allows the Scottsdale Police Department to provide forensic services and the use of the Family Advocacy Center to the town of Paradise Valley Police Department for \$25,000.
- In anticipation of the agreement, the Scottsdale Police Department included \$20,000 in the Forensic Science Agreement center approved FY03/04 budget. As the IGA is for \$25,000, authorize the transfer \$5,000 of Special Revenue Fund Contingency budget to the Forensic Science Agreement center (280-02304-54530). The contract amount will fully fund the costs associated with the IGA.

**Related Policies, References:** This agreement is made under the authority of Article 1, section 3-1 of the city charter of the City of Scottsdale.

**Staff Contact(s):** Allen Steve Garrett, Forensic Services Division Manager, 480-312-5280, [sgarrett@scottsdaleaz.gov](mailto:sgarrett@scottsdaleaz.gov)

**7. Consider awarding federal lobbying and information services contract with Carolyn C. Chaney and Associates.**

**Request:** Approve Contract Number 2003-122-COS with Carolyn C. Chaney and Associates to provide federal lobbying and information services on behalf of the City of Scottsdale for an annual compensation of \$66,000 and up to \$3,000 for reimbursable expenses incurred on behalf of Scottsdale while carrying out the terms of the contract.

**Staff Contact(s):** Steve Olson, Governmental Relations Director, [solson@scottsdaleaz.gov](mailto:solson@scottsdaleaz.gov) (480)312-2423

**8. City Code amendment instituting the City of Scottsdale Drought Management Plan.**

**Request:** Adopt Ordinance No. 3516 amending the City Water Conservation Code to provide regulations for times of drought, and empowering the City Manager to promulgate and enforce the City of Scottsdale Drought Management Plan. The City of Scottsdale Drought Management Plan is the administrative document which describes City of Scottsdale's response to water supply shortages, including mandatory water conservation regulations. The Code amendment provides the mechanism to enforce the Drought Management Plan requirements.

**Staff Contact(s):** Beth Miller, Water Resources Advisor, [emiller@Scottsdaleaz.gov](mailto:emiller@Scottsdaleaz.gov) (480) 312-5009; Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov); David Mansfield, Water Resources General Manager, 480-312-5681, [dmansfield@scottsdaleaz.gov](mailto:dmansfield@scottsdaleaz.gov)

**9. Construction Bid Award for the expansion and renovation of Fire Station 11, located in the proximity of McDonald Drive and Scottsdale Road**

**Request:** Authorize Construction Bid Award No. 03PB110 to Petersen Development, the lowest responsive bidder, at their lump sum base bid of \$148,000.00.

**Staff Contact(s):** Dan Walsh, Project Manager, (480) 312-5248 [dwalsh@scottsdaleaz.gov](mailto:dwalsh@scottsdaleaz.gov); Al Dreska, (480) 312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

**10. Construction Bid Award and Budget Transfer for Fire Station 27, located near the intersection of Pima and Ashler Hills**

**Request:**

AUTHORIZE Construction Bid Award No. 03PB108 in the total amount of \$741,364.00, consisting of the base bid and bid alternate No. 1, to Harney-Naill, Inc., the lowest responsive bidder.

AUTHORIZE a capital contingency fund transfer in the amount of \$200,000 to CIP Account No. B9909 (Ashler Hills & Pima Fire Station #27)

AUTHORIZE a reduction in the proposed FY 04/05 CIP Budget allocation to CIP Account No. B9909 from \$400,000 to \$200,000.

**Related Policies, References:** The design and construction of this facility will move the City toward the accepted total emergency coverage that was identified in 1992 and subsequently included in the City's General Plan. Council approved the design contract for the station on December 4, 2002. The amount of the proposed capital contingency transfer to CIP Account No. B9909 will be offset by reducing the additional funding planned for this project in FY 04/05.

**Staff Contact(s):** Dan Walsh, Project Manager, [dwalsh@scottsdaleaz.gov](mailto:dwalsh@scottsdaleaz.gov), (480) 312-5248; Al Dreska, (480) 312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

**11. Design of Regulatory Compliance Improvements at the Central Arizona Project Water Treatment Plant.**

**Request:** Authorize Engineering Services Contract No. 2003-110-COS with Malcolm Pirnie, Inc. in the amount of \$2,394,102.00 for the final design of regulatory compliance improvements at the Central Arizona Project Water Treatment Plant.

**Related Policies, References:**

- a. Water Resources Master Plan, approved by City Council on October 15, 2001.
- b. Engineering Services Contract No. 2001-167-COS, for conceptual site plan of CAP Treatment Plant expansion, approved by City Council on November 26, 2001.

**Staff Contact(s):** Charles W. Henne, Project Manager, (480) 312-7097, [chenne@scottsdaleaz.gov](mailto:chenne@scottsdaleaz.gov); Al Dreska, (480) 312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

**Norwood Sisson**, 7431 E Portland, 85257, questioned these improvements and Mayor Manross explained the EPA regulations.

**12. Engineering Services Contract for design of the Zone 12 /13 Water Transmission Line.**

**Request:** Authorize Engineering Services Contract No. 2003-121-COS with Wood, Patel & Associates, Inc., in the amount of \$190,433.00 for the design of a water transmission line between Dynamite Boulevard and Jomax Road, and for engineering services during construction of the Zone 12/13 Reservoir.

**Related Policies, References:**

- a. Water Resources Master Plan, approved by City Council on October 15, 2001.
- b. Engineering Services Contract 2000-030-COS for design of Zone 12/13 Reservoir, approved by City Council on March 20, 2000.

**Staff Contact(s):** Doreen Song, P.E. Project Manager, (480)312-2367, [dsong@scottsdaleaz.gov](mailto:dsong@scottsdaleaz.gov); Al Dreska, (480) 312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

**13. Construction Bid Award for Waterline Replacements in the area of De La O Road, Pima to 84<sup>th</sup> Street.**

**Request:** Authorize Construction Bid Award No. 03PB005 to Citywide Contracting, LLC, the lowest responsive bidder, at their unit price bid of \$450,474.00.

**Staff Contact(s):** Alison Tymkiw, Sr. Project Manager, (480) 312-7985, [atymkiw@scottsdaleaz.gov](mailto:atymkiw@scottsdaleaz.gov)

**14. Adopt Official Marking Scheme for City-owned and Leased vehicles and Authorize City Manager Approval of Unmarked Vehicles.**

**Request:** Adopt Resolution No. 6287 establishing an official marking scheme for City-owned and leased vehicles and authorizing the City Manager to grant exemptions to the marking requirement for those vehicles used to perform confidential functions.

**Related Policies, References:**

- Arizona Revised Statutes (ARS) Section 38-538
- Arizona Revised Statutes (ARS) Section 28-2511
- City Audit Report No. 0161D

**Staff Contact(s):** Danny Johnson, Fleet Management Director, (480) 312-5575, [djohnson@scottsdaleaz.gov](mailto:djohnson@scottsdaleaz.gov); Al Dreska, (480) 312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

**\*\*\*15. WITHDRAWN**

**Construction Bid Award for Civic Center Mall Amphitheater and Nevelson Sculpture Re-siting**

**16. Construction Contract Award for Hayden Road - Thompson Peak Parkway to Williams Drive**

**Request:** Authorize Construction Contract Award No. 03PB072 to J. Banicki Construction, Inc., the lowest responsive bidder, at their total unit price bid of \$973,589.85 for Segment 3 of the Hayden Road – Princess Drive to Pinnacle Peak project

**Staff Contact(s):** Alex McLaren , Construction and Design Director, [amclaren@scottsdaleaz.gov](mailto:amclaren@scottsdaleaz.gov), (480)312-7099; Al Dreska, (480) 312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

**17. Construction Bid Award for Police District Three Emergency Electrical Power Generator**



**Request:** Authorize Construction Bid Award No. 03PB095 to Buehler Brothers Electric, Inc., the lowest responsive bidder, at their lump sum base bid of \$72,200.00.

**Staff Contact(s):** Dan Walsh, Project Manager, (480) 312-5248  
[dwalsh@scottsdaleaz.gov](mailto:dwalsh@scottsdaleaz.gov); Al Dreska, (480) 312-2776,  
[adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

**18. Outdoor Dining Lease on Civic Center Mall**

**Request:** Adopt Resolution No. 6339 AUTHORIZING lease agreement 2003-125-COS with James-Hotel Scottsdale L.L.C., an Arizona limited liability company to construct and operate an outdoor dining area on the Scottsdale Civic Center Mall.

**Related Policies, References:**

- Section 2-221(b)(4) of the Scottsdale Revised Code, which allows the sale of City property interests, including leases, directly to adjoining property owners.
- Resolution No. 4879 was adopted September 2, 1997, which authorized a lease with AZ88 to construct and operate an outdoor dining area on the Scottsdale Civic Center Mall.
- Resolution No. 5296 was adopted June 1, 1999, which authorized a lease with the Blue Moose restaurant to operate a second outdoor dining area on the Scottsdale Civic Center Mall.

**Staff Contact(s):** Ron King, Asset Management Coordinator, (480)-312-7042,  
[rking@scottsdaleaz.gov](mailto:rking@scottsdaleaz.gov);  
Jon Chase, Principle Planner, (480)-312-2578, [jchase@scottsdaleaz.gov](mailto:jchase@scottsdaleaz.gov); Randy Grant, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

**19. Contract Modification for Design of Sewer Collection System Rehabilitation Project**

**Request:** Authorize contract modification to Engineering Services Contract No. 2002-034A-COS with Brown & Caldwell Inc., in the total amount of \$188,191.00, for design of Phase 2 of the Sewer Collection System Rehabilitation Project.

**Related Policies, References:** Engineering Services Contract No. 2002-034-COS, approved by City Council on May 13, 2002.

**Staff Contact(s):** Annette Grove, Sr. Project Manager, (480) 312-2399,  
[agrove@scottsdaleaz.gov](mailto:agrove@scottsdaleaz.gov); Al Dreska, (480) 312-2776,  
[adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

**20. Acquire easement for the widening of 96<sup>th</sup> Street from Shea Boulevard to Thunderbird Road.**

**Request:** Adopt Resolution No. 6326 authorizing the acquisition of a multi-use path and slope easement on property located at 9551 E. Redfield Road from G & I Redfield Development, LLC at the total appraised value of \$33,840 plus

approximately \$1,500 in closing costs for the 96<sup>th</sup> St. Improvements CIP project (Shea – Thunderbird Road).

**Related Policies, References:**

- a. Resolution No. 6253 authorized the initiation of negotiations for the acquisition of 16 various parcels of right-of-way/easements (ROW) from nine property owners for the 96<sup>th</sup> St. Improvements project (Shea-Thunderbird Rd).
- b. Cactus Corridor Equestrian Overlay District
- c. Bond 2000 CIP Project

**Staff Contact(s):** Marek Urbanek, Project Manager, (480) 312-2563, [murbanek@ci.scottsdale.az.us](mailto:murbanek@ci.scottsdale.az.us); Rhonda Thomas, Right of Way Agent, (480) 312-7847, [Rthomas@ci.scottsdale.az.us](mailto:Rthomas@ci.scottsdale.az.us); Al Dreska, (480) 312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

**21. Purchase of Excess Municipal Liability Insurance for the period 7/1/03-04**

**Request:** Consider authorizing purchase of General Liability, Vehicle Liability and Public Officials Errors and Omission insurance protection of \$40,000,000 Limits of Liability per occurrence and annual aggregate coverage from various insurers for claims in excess of the City's self-insured retention amount of \$2,000,000 per occurrence for a cost of \$687,830 and adopt Resolution No. 6330.

**Related Policies, References:** Scottsdale Revised Code, Section 2-173 calls for the purchase of excess insurance above the self-insured retention as recommended by the Risk Management Director and approved by City Council.

**Staff Contact(s):** Myron J. Kuklok, Risk Management Director, 480-312-7841, [mkuklok@scottsdaleaz.gov](mailto:mkuklok@scottsdaleaz.gov); Craig Clifford, Chief Financial Officer, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov)

**22. Purchase of Scottsdale Airport Liability Insurance for the period 7/1/03-04**

**Request:** Consider authorizing purchase of Scottsdale Airport Liability and Hangarkeepers' Legal Liability insurance of \$100,000,000 per occurrence and annual aggregate limits of Airport Liability coverage and \$100,000,000 for Hangarkeepers Legal Liability coverage from insurers ACE/Lloyds at a cost of \$57,602 and adopt Resolution No. 6333.

**Staff Contact(s):** Myron J. Kuklok, Risk Management Director, 480-312-7841, [mkuklok@scottsdaleaz.gov](mailto:mkuklok@scottsdaleaz.gov); Craig Clifford, Chief Financial Officer, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov)

**23. Purchase of excess Workers' Compensation insurance for the period 7/1/03 – 7/1/04**

**Request:** Consider authorizing the purchase of Workers' Compensation insurance from Midwest Employers Casualty Company in excess of the City's

self-insured retention amount of \$600,000 for a cost of \$92,185 and adopt Resolution No. 6331.

**Staff Contact(s):** Myron J. Kuklok, Risk Management Director, 480-312-7841, [mkuklok@scottsdaleaz.gov](mailto:mkuklok@scottsdaleaz.gov); Craig Clifford, Chief Financial Officer, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov)

**24. Purchase of Property Insurance for City Buildings, Contents and Equipment for the period 7/1/03-04.**

**Request:** Consider authorizing purchase of Property insurance on approximately \$534 million of buildings, contents and equipment replacement values in excess of the deductible portions from the Allianz Insurance Group, at a cost of \$713,147 and adopt Resolution No. 6332.

**Staff Contact(s):** Myron J. Kuklok, Risk Management Director, 480-312-7841, [mkuklok@scottsdaleaz.gov](mailto:mkuklok@scottsdaleaz.gov)

**Norwood Sisson**, 7431 E Portland, 85257, spoke of increased costs and did not feel this was a smart idea.

**25. Authorize the filing of a Notice of Appeal in City of Scottsdale v. Glenalden Homes, L.L.C., et al., Superior Court Case No. CV 99-13348.**

**Request:** Authorize Graham & Associates, LTD. to file a Notice of Appeal on behalf of the City of Scottsdale in the litigation entitled City of Scottsdale v. Glenalden Homes, L.L.C., et al., Superior Court Case No. CV 99-13348, an eminent domain action brought to acquire real property for the McDowell Sonoran Preserve, with the caveat that counsel will return to the City Council for further direction on how to proceed in prosecuting the appeal to a conclusion.

**Related Policies, References:** Resolution No. 6280 (retention of outside counsel)

**Staff Contact(s):** David A. Pennartz, City Attorney, [dpennartz@scottsdaleaz.gov](mailto:dpennartz@scottsdaleaz.gov), (480) 312-2405

**Leon Spiro**, 7814 E Oberlin Wy, 85262, requested an explanation and Mr. Pennartz said this was simply a motion to file an appeal in the event a motion for new trial was denied during the summer break. Council would have an opportunity in the fall to consider if they wanted to pursue the appeal.

**26. City of Scottsdale adv. Allied Construction, Inc.**

**Request:** Adopt Resolution No. 6335 authorizing the City Attorney to renew Contract No. 2000-160A-COS and authorize renewal of Contract No. 2000-160A-COS in a maximum amount of Five Thousand Dollars (\$5,000) with Holden Brodman PLC for legal services in connection with the dispute among the City of Scottsdale, Allied Construction, Inc., and the City's engineer, Cella Barr Associates, relating to construction at McCormick-Stillman Ranch Railroad Park.

**Staff Contact(s):** Steven Bennett, Deputy City Attorney 480-312-2405, [sbennett@scottsdaleaz.gov](mailto:sbennett@scottsdaleaz.gov);  
David A. Pennartz, City Attorney, 480-312-2405, [dpennartz@scottsdaleaz.gov](mailto:dpennartz@scottsdaleaz.gov)

**\*\*\*26A. Authorization of Tourism/Proposition 202 Funding Proposal**

**Request:** Authorize Resolution No. 6431 to authorize a proposal to the Fort McDowell Yavapai Nation for funds to promote tourism in the northeast valley, in accordance with Proposition 202.

**Related Policies, References:** Proposition 202, the 17 Tribe Indian Self-Reliance Initiative.

**Staff Contact(s):** Natalie N. Lewis, [nlewis@ScottsdaleAZ.gov](mailto:nlewis@ScottsdaleAZ.gov), 480-312-7806

COUNCILWOMAN LUKAS MOVED FOR APPROVAL OF CONSENT AGENDA ITEMS 1-26A WITH THE EXCEPTION OF ITEMS 2 AND 15. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7-0.

**REMOVED FROM CONSENT AGENDA FOR SEPARATE DISCUSSION:**

**2. DC Ranch Parcel 1.18 (Planning Unit 1)**

**Request:**

1. To approve the Final Plat for a 111-lot subdivision at DC Ranch.
2. To adopt Resolution No. 6336 authorizing Park Agreement No. 2003-123-COS.

**2-PP-2003**

**Key Items for Consideration:**

- This is the first development/subdivision in DC Ranch's Planning Unit 1.
- The development complies with the Master Plans for Planning Unit 1.
- A new 12.8-acre neighborhood park site will be dedicated to the City.

**Related Policies, References:** 54-ZN-1989#1 thru 5, 5-MP-2002, Community Facilities District

**Staff Contact(s):** Tim Curtis, Project Coordination Manager, 480-312-4210, [tcurtis@ScottsdaleAZ.gov](mailto:tcurtis@ScottsdaleAZ.gov); Joe Morris, Development Engineering Manager, 480-312-5757, [jdmorris@ScottsdaleAZ.gov](mailto:jdmorris@ScottsdaleAZ.gov); [rgrant@ScottsdaleAZ.gov](mailto:rgrant@ScottsdaleAZ.gov)

Councilman Littlefield questioned the location of this plat and its relation to the airport and noise complaints. He felt it was foolish to build in the air traffic flight path even though residents signed a waiver. He would oppose this item and felt the city needed to stop doing this.

Scott Grey, Aviation Director, acknowledged this area was not located within the noise contours but was in the influence area.

Responding to Councilwoman Lukas, Mr. Pennartz said in approving a final plat there was little leeway for the Council in dealing with land use. Their decision should be based upon whether the final plat was in conformance with the preliminary plat and whether all stipulations had been satisfied.

A representative of the applicant spoke of the stipulations they followed which exceeded what was done in other developments, and discussed the disclosure provided to buyers.

Councilman Ecton said he understood they were voting on the final plat tonight but there would still be people complaining about the noise so he would vote against this item in protest.

Councilman Littlefield agreed all the legal requirements were upheld but still felt this should not be allowed.

Mayor Manross said they were not discussing land issues tonight and this met all the conformance requirements of final plat so they were legally required to vote upon that. However, she understood the concerns and the need to do things different in the future.

COUNCILMAN ORTEGA MOVED FOR APPROVAL OF ITEM 2, 2-PP-2003. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 5/2 WITH COUNCILMEMBERS ECTON AND LITTLEFIELD DISSENTING.

## **REGULAR AGENDA**

### **27. Downtown Overlay and Related Amendments**

#### **Request:**

1. To amend City of Scottsdale Zoning Ordinance (Ordinance No. 455) Article I., Administration and Procedures., Section 1.403. Additional conditions for specific conditional uses., Article III., Definitions.; Section 3.100 General.; Article V., District Regulations., Section 5.3002. Conflict with other sections., Article IX., Parking and Loading Requirements., Section 9.104. Programs and incentives to reduce parking requirements., and Section 9.108 Special parking requirements in districts., and to add Article VI., Supplementary Districts.; Section 6.1200., (DO) DOWNTOWN OVERLAY.
2. To apply the Downtown Overlay (DO) zoning to 750 +/- acres known as the Downtown area.
3. To adopt Ordinance No. 3521 affirming the above rezoning
4. To adopt Ordinance No. 3520, affirming the above text amendment.

**Location:** Downtown area which is generally bounded by Chaparral Road on the north, Miller Road on the east, Earll Drive on the south and 68th Street on the west.

**Reference:** 1-TA-2003 & 5-ZN-2003

**Staff Contacts:** Monique de los Rios-Urban, Senior Planner, 480-312-7898, [mdelos@ScottsdaleAz.gov](mailto:mdelos@ScottsdaleAz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov); Ed Gawf, Deputy City Manager, 480-312-4510, [egawf@scottsdaleaz.gov](mailto:egawf@scottsdaleaz.gov)

Ed Gawf reviewed the downtown principles and downtown action plan. Last fall staff was given direction to focus on three specific items: 1) Simplify parking requirements; 2) Promote reinvestment; 3) Address land use issues.

Randy Grant reviewed the current zoning in downtown and the boundaries, noting that about 40% of the property has been rezoned to Downtown Zoning. He reviewed all the benefits of an Overlay District and discussed the city's goals for downtown as listed in the Council Action Report and stated above by Mr. Gawf.

One of the proposed criteria to simplify parking requirements and promote reinvestment, was a one-time waiver of parking requirements for expansion of an existing retail or office space of up to 2000 s.f., without supplying additional parking, limited to lots of 12,000 s.f. or less. Public comments have been to increase that substantially or eliminate that limitation altogether.

In regard to land use issues, Mr. Grant noted new bars and tattoo parlors would need use permits and a security plan and maintenance plan would be required for bars as well.

In relation to the criteria that parking must be within 600 ft of property and not separated by an arterial street, Councilman Ortega and Mayor Manross expressed concerns and Mr. Grant further explained staff's objectives. Councilman Ecton agreed with that criteria.

Mr. Grant reviewed the criteria to be used to distinguish between a bar and a restaurant. One or more of the following must be met: Less than 40% food sales, less than 15% kitchen area, more than 15% bar area, age verification required, cover charge required, or full kitchen closes before 9PM.

In response to Vice Mayor O'Hearn, Mr. Grant explained staff looked for criteria that could be verified in the field, either by building plans or by observation, and tested these criteria against 8 or 9 different restaurant/bar establishments in order to validate the distinctions.

Responding to Councilwoman Lukas, Mr. Grant said the maintenance plan would be for all bars, not just new ones, and would be part of the annually renewed business license process.

Responding to Councilman Ortega, Mr. Grant further explained the criteria for 15% bar area. Councilman Ortega felt 15% was too small.

Mayor Manross questioned how this affected hotels in the downtown area. Mr. Grant said there was no reference to hotels in the ordinance and he further discussed the struggle staff had with the language in their desire to have mixed use.

Councilman Silverman expressed concerns about parking. Mr. Grant said analysis was done which showed incentives and waivers could be provided and still provide adequate parking.

Vice Mayor O'Hearn said many of the criteria were interpretive or subjective and wondered if they were legally defensible. Mr. Pennartz replied that his office had participated in formulating the language of this ordinance and were confident.

Councilman Ecton wondered why current bars and night clubs will be grandfathered. Mr. Pennartz answered the use permit mechanism was part of the zoning regulation and, under state law, legal non-conforming uses are allowed to stay as long as they remain the same.

**Public testimony opened:**

**Tom Anderson**, 4224 N Craftsman Ct, 85251, owner of two establishments supported this program with a few exceptions: He felt Series 12 owners have been taking advantage of the city for many years and this needed to be done city-wide, not just downtown. He also felt the city should add DJ's or groups of 3 or more under entertainment and that additional parking not be required for patios.

**Lynne Lagarde**, 3101 N Central, 85012, spoke on behalf of Westcor and said this was a good thing. She suggested that 15% for the bar area was not enough.

**Margaret Dunn**, 9617 N 83rd Way, 85258, read a letter from downtown constituents in support of the overlay with several language changes to the ordinance.

**Jordan Rose**, 7272 E Indian School #205, 85251, representing the Coach House, asked Council to consider the mapping of overlay district and the in-lieu parking requirement.

**Richard Funke**, 4409 N 66<sup>th</sup> St, 85251, an investor in downtown Scottsdale, discussed the issue of clean-up around the bars and disagreed that lot sizes should be smaller to qualify for the 2000 s.f. waiver.

**Tom Frenkel**, 4332 N Wells Fargo #200, 85251, owner of 23 properties in downtown Scottsdale, said these changes would help the situation. He did not agree with the 15%

requirement for bars and there was no reason to limit lot size to 12,000 s.f.. He would like to see an addition in the SR District to raise the height of buildings to 26 ft. to enable second stories.

Councilman Ortega thought SR Zoning within the Downtown Overlay already qualified for 26 ft. and wished that to be part of the ordinance.

**Public testimony concluded.** Two additional comment cards were received from citizens, one in favor and one in opposition.

COUNCILMAN ORTEGA MOVED FOR APPROVAL OF DOWNTOWN OVERLAY WITH THE FOLLOWING AMENDMENTS: 1) REQUEST STAFF TO BRING BACK THE ISSUE OF SR ZONING; 2) RAISE BAR SIZE TO 20%.

(Mr. Gawf said the SR zoning issue could come back in the fall when other amendments are planned to be brought forth. It was not agendaized for action on tonight's agenda, but the motion could state that staff should bring that issue back to the Council.)

(In regard to the 15% bar area requirement, Mr. Grant said staff was trying to get as many things that were not performance related and Councilman Ortega suggested perhaps 20%.)

COUNCILWOMAN LUKAS SECONDED THE MOTION AND WISHED TO AMEND THE MOTION TO INCLUDE: 3) ELIMINATE THE 12,000 S.F. PARKING WAIVER. COUNCILMAN ORTEGA AGREED TO THE AMENDMENT.

Councilwoman Lukas felt the SR was essential for downtown. Also, the parking ordinance was very confusing and was being simplified.

Responding to Councilman Ecton, Mr. Gawf said staff could consider making the use permit citywide in the fall when other amendments were brought forth.

Vice Mayor O'Hearn expressed concerns about tinkering with the percentages and other adjustments and asked staff if they were comfortable with the 20% bar area. Mr. Gawf said they were comfortable with 15% or 20%. He further noted that one of the largest bars in the area was only 8%. Vice Mayor O'Hearn wanted to support the whole change, but approve the overlay the way it was presented and revisit issues later rather than make changes here tonight.

Councilman Littlefield saw a need to look at applying overlay to other parts of town. He preferred to stay with the staff recommendation of 15%.



COUNCILMAN ORTEGA AMENDED HIS MOTION TO REMOVE THE PREVIOUS AMENDMENT (2) RELATED TO BAR SIZE. COUNCILWOMAN LUKAS AGREED WITH THE AMENDED MOTION.

Mayor Manross clarified that the other issues would be brought back to Council in the fall.

THE AMENDED MOTION CARRIED 7-0.

### **Public Comment**

**Beverly Hall**, 2514 N 86<sup>th</sup> St, 85257, expressed concerns about Vice Mayor O'Hearn's relation to Walmart and a potential conflict of interest.

**Leon Spiro**, 7814 E Oberlin Wy, 85262, read a letter from John Aleo regarding GLO patent for roadway and public utility easement and requested it be made part of the record.

**City Manager's Report** - No report was issued.

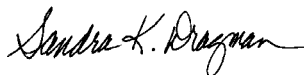
### **Mayor and Council Items**

Councilman Ecton distributed a memo he had written to the City Manager proposing the creation of a strategic plan called "This Way Scottsdale" and requested it be agendized for a future council meeting.

Councilman Ortega referenced a legal memorandum regarding the Elman Subsidy from the Irvine Law Firm and requested discussion of this memo take place at tomorrow night's council meeting.

**Adjournment** - With no further business to discuss, Mayor Manross adjourned the meeting at 8:22 PM.

**SUBMITTED BY:**



**Sandy Dragman**  
**Recording Secretary**

**REVIEWED BY:**

**Sonia Robertson**  
**City Clerk**

## **C E R T I F I C A T E**

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular City Council Meeting of the City Council of Scottsdale, Arizona held on the 1<sup>st</sup> day of July 2003.

I further certify that the meeting was duly called and held, and that a quorum was present.

**DATED** this \_\_\_\_\_ day of July 2003.

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**SONIA ROBERTSON**  
City Clerk